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C O N F I D E N T I A L SECTION 01 OF 02 PHNOM PENH 000847

SIPDIS

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TAGS: [PGOV](#) [PREL](#) [PHUM](#) [KTIA](#) [KJUS](#) [CB](#)  
SUBJECT: NATIONAL ASSEMBLY LIFTS SAM RAINSY'S IMMUNITY IN  
SENSITIVE BORDER CASE

Classified By: DCM THEODORE ALLEGRA FOR REASONS 1.4 (B, D)

11. (C) SUMMARY: The National Assembly voted November 16 to lift opposition party leader Sam Rainsy's immunity to pursue allegations that he destroyed state property and incited national/racial hatred against the Vietnamese during an October 25 incident on the Cambodia-Vietnam border. To respond to official Vietnamese government claims of interference in the border demarcation process, the Svay Rieng province prosecutor may issue a summons to question Rainsy about his role in removing temporary border markers. It appears Rainsy did not directly remove the border markers but is obscuring this fact while using the limelight to focus on the RGC's border demarcation policy and its conflation with sensitive land tenure issues. To show that the "new" cooperative party of just a few months ago has jettisoned any semblance of cooperation, Rainsy has thrown into the mix charges that the CPP is unconcerned about the monarchy, abusive of the constitution, and "subservient" to Vietnamese "expansionist" policies. END SUMMARY.

The Whole Truth?  
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12. (C) Two eye-witnesses relayed accounts to us that Rainsy did not remove any of six wooden stakes used to delineate a square foundation for a planned cement border marker separating Vietnam and Cambodia. Rather, Rainsy spoke against the location of the marker when he joined farmers and a group of about 50 others in the rice fields on Cambodia's southeastern border with Vietnam, and immediately telephoned Radio Free Asia to report his efforts. While Rainsy was on the phone, local farmers reportedly removed the markers. Rainsy and other party members held on to the markers before throwing them to the ground. On November 1, Rainsy publicly denied uprooting any border markers. Since then, however, he has neither confirmed nor denied his own culpability while defending the act of symbolically opposing encroachment. We also learned that two of the six border markers were transported to Phnom Penh and, as of November 13, were in the possession of high-ranking SRP activists. Over the weekend, some in SRP were considering having the marker posts returned, cognizant of the fact the objects were state property.

13. (SBU) In subsequent news accounts and radio interviews, Rainsy and other SRP members have used the highly offensive term "Yuon" to refer to the Vietnamese in an apparent effort to stir up long-standing ethnic mistrust and anti-Vietnamese resentment. Rainsy has volubly equated the situation with Cambodia's Thai border dispute, also apparently in an effort to ratchet up nationalist sentiment.

And Nothing but the Truth?  
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14. (SBU) Of the 87 Cambodian Peoples Party (CPP), Norodom Ranariddh Party (NRP) and FUNCINPEC representatives present

at the National Assembly, all voted in favor of the motion. Calling the vote to remove Rainsy's immunity unconstitutional, 24 SRP members boycotted the National Assembly meeting and marched nearby undisturbed to the Independence Monument, before walking back to SRP headquarters and holding a rally with about 100 SRP Phnom Penh members in attendance. Party spokesman Yim Sovann denounced the Hun Sen government, reciting the familiar charges that the RGC was following Vietnamese orders and that it did not care that King Father Sihanouk had expressed concern about the issue. Rainsy himself did not attend the proceedings; he is presently in Paris.

¶5. (SBU) The provincial prosecutor, through the Ministry of Justice, must seek the lifting of any MP's immunity in order to proceed with formal questioning. Based on two previous cases this year -- SRP parliamentarians Mu Sochua and Ho Vann -- the prosecutor is likely to issue a summons within the next three-five days and the actual questioning will occur within the next month. The summons may mention suspected infractions of law. In anticipation of this summons, some SRP insiders say that no lawyer can be found to defend Rainsy or answer the prosecutor's questions, but admitted they came to this conclusion after making only three phone calls.

¶6. (SBU) If the two allegations lead to formal charges, Rainsy could face at least two counts under the 1992 UNTAC Criminal Law: Article 52 on wrongful damage to property, and Article 61 on incitement to provoke national or racial hatred. Each count carries a penalty of jail time up to one year.

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#### Politics of Borders

¶7. (SBU) In the meantime, Sam Rainsy from Paris and SRP parliamentarian activists have begun a high-volume campaign to put a spotlight on what appears to be a poorly implemented border demarcation process with the Vietnamese. Farmers who see border posts going up in their fields are not being told what will happen to those with long-standing, customary use of rice fields situated on the other side, and are not sure if they will be compensated or continue the enjoyment of their property once the borderline is fully implemented.

¶8. (SBU) Seeing disruptive activities interfering with a painstakingly negotiated border agreement reached in 2005, the government of Vietnam November 3 formally complained about the incident in an exchange between Vietnamese Prime Minister Nguyen Tan Dung and RGC Deputy Prime Minister Men Sam An. The Vietnamese complaint carefully referred to the uprooting of six temporary poles for Marker 185 and requested that the RGC prevent a reoccurrence. The official inquiry, which so far has spotlighted only Rainsy, is the first official RGC response. (NOTE: SRP sources claim that the local CPP District Governor is warning all other farmers not to support Sam Rainsy. END NOTE.)

#### COMMENT

¶9. (C) The Sam Rainsy Party has taken a disruptive approach to a major problem and added toxic elements of racism and anti-Vietnamese sentiment to make it worse. This time, some involved took steps that by all accounts are illegal and disruptive of a sensitive bilateral agreement. At this stage at least, it is unclear whether the proud and unpredictable Sam Rainsy will find a way out of the current self-made tempest, or whether he will appeal to the international community to justify his actions.

RODLEY